

HOUSE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MEYER, Kerttula

Introduced: 1/19/05

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing in the office of the ombudsman a state executive branch employee**
2 **fraud, waste, and abuse report hotline program."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 24.55.090(a) is amended to read:

5 (a) The ombudsman shall, by regulations adopted under AS 44.62
6 (Administrative Procedure Act), establish procedures for receiving and processing

7 **(1) complaints, conducting investigations, reporting findings, and**
8 **ensuring that confidential information obtained by the ombudsman in the course of an**
9 **investigation will not be improperly disclosed; and**

10 **(2) reports made by state employees using the state employee**
11 **fraud, waste, and abuse hotline program.**

12 *** Sec. 2.** AS 24.55 is amended by adding new sections to read:

13 **Article 4A. State Employee Fraud, Waste, and Abuse Hotline Program.**

14 **Sec. 24.55.222. State employee fraud, waste, and abuse hotline program.**

1 (a) The ombudsman shall establish, maintain, and administer the state executive
 2 branch employee fraud, waste, and abuse hotline program to encourage state executive
 3 branch employees to report situations where fraud, waste, or abuse may be occurring
 4 in the state's executive branch agencies and institutions.

5 (b) The ombudsman may make available to state executive branch employees
 6 a variety of means to report fraud, waste, and abuse in the state's executive branch, one
 7 of which shall be an anonymous toll-free telephone number, and including any other
 8 communications to the ombudsman made through the governor or heads of executive
 9 branch state agencies, or made by mail, e-mail, fax, and the Internet.

10 (c) An allegation made to the hotline shall be considered to be anonymous.
 11 The ombudsman may not attempt to identify any person contacting the hotline and
 12 may protect the anonymity of the state executive branch employee reporting to the
 13 hotline.

14 **Sec. 24.55.224. Investigations.** (a) The subjects appropriate for an
 15 investigation under AS 24.55.222 are fraud, waste, or abuse.

16 (b) The ombudsman shall investigate any allegation that is an appropriate
 17 subject for investigation under (a) of this section, unless the ombudsman reasonably
 18 believes that

19 (1) the allegation relates to a matter that is outside the jurisdiction of
 20 the ombudsman;

21 (2) the allegation is trivial or made in bad faith;

22 (3) the resources of the ombudsman's office are insufficient for
 23 adequate investigation.

24 (c) The provisions of AS 24.55.120 - 24.55.330 apply to allegations of fraud,
 25 waste, or abuse reported under AS 24.55.222, except for AS 24.55.130, 24.55.150,
 26 24.55.210, 24.55.280, and 24.55.320.

27 **Sec. 24.55.226. Definitions for AS 24.55.222 - 24.55.226.** In AS 24.55.222 -
 28 24.55.226,

29 (1) "abuse" means the intentional destruction, diversion, manipulation,
 30 misapplication, maltreatment, or misuse of government resources, and extravagant or
 31 excessive use of one's position or authority; abuse may include financial and non-

1 financial misuse of government resources;

2 (2) "fraud" means the intentional deception, including a false
3 representation of a matter or fact, whether by words or by conduct, by false or
4 misleading statements, or by concealment of that which should have been disclosed
5 and that deceives and is intended to deceive, by any person within or external to the
6 state government that could result in a benefit to the person perpetrating the fraud, or a
7 detriment to others or the state;

8 (3) "state executive branch employee" means a person employed by a
9 department, office, institution, board, commission, bureau, division, or other
10 administrative unit forming a part of the executive branch of state government;

11 (4) "waste" means the intentional or unintentional, thoughtless or
12 careless expenditure, consumption, mismanagement, use of, or squandering of a
13 resource of the state to the detriment or potential detriment of the state, or incurring
14 unnecessary costs as a result of inefficient or ineffective practices, systems, or
15 controls.

16 * **Sec. 3.** AS 39.90.100(a) is amended to read:

17 (a) A public employer may not discharge, threaten, or otherwise discriminate
18 against an employee regarding the employee's compensation, terms, conditions,
19 location, or privileges of employment because

20 (1) the employee, or a person acting on behalf of the employee, reports
21 to a public body or is about to report to a public body a matter of public concern; [OR]

22 (2) the employee participates in a court action, an investigation, a
23 hearing, or an inquiry held by a public body on a matter of public concern; or

24 **(3) the employee contacted or cooperated with the ombudsman in**
25 **regard to an allegation of fraud, waste, or abuse under the state employee fraud,**
26 **waste, and abuse hotline program under AS 24.55.**

27 * **Sec. 4.** AS 39.90.110(c) is amended to read:

28 (c) As part of its written personnel policy, a public employer may require that,
29 before an employee initiates a report on a matter of public concern under
30 AS 39.90.100, the employee shall submit a written report concerning the matter to the
31 employer. However, the employee is not required to submit a report if the employee

1 (1) reasonably believes that reports to the employer will not result in
2 prompt action to remedy the matter of public concern;

3 (2) believes with reasonable certainty that the activity, policy, or
4 practice is already known to one or more supervisors;

5 (3) reasonably believes that an emergency is involved; [OR]

6 (4) reasonably fears reprisal or discrimination as a result of disclosure;

7 **or**

8 **(5) contacts the ombudsman under the state employee fraud,**
9 **waste, and abuse hotline program under AS 24.55.**